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CURRENT ACTIVITIES OF INTERNATIONAL ORGANISATIONS RELATED TO HARMONIZATION AND UNIFICATION OF INTERNATIONAL TRADE LAW

Note by the Secretariat

1. The General Assembly, in resolution 34/142 of 17 December 1979, requested the Secretary-General to place before the United Nations Commission on International Trade Law, at each of its sessions, a report on the legal activities of international organisations in the field of international trade law, together with recommendations as to the steps to be taken by the Commission to fulfil its mandate of co-ordinating the activities of other organisations in the field.

2. In response to that resolution, detailed reports on the current activities of other organisations related to the harmonization and unification of international trade law have been issued at regular intervals, the last one having been submitted at the twenty-third session in 1990. For the report to the twenty-fourth session of the Commission a different focus was envisaged. It was decided to report on the extent to which multilateral and bilateral development organisations might be involved in activities whose objective was that of modernizing commercial law in developing countries.

3. Although the development of international trade law is usually thought of exclusively in terms of the preparation of legal texts governing some aspects of the law of international trade by international organisations such as those whose activities have been subject of prior reports, the international community also affects the development of international trade law when it contributes to the development of domestic commercial law. It was the understanding of the Secretariat that various multilateral and bilateral development agencies had aided developing countries to prepare legislation in

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various aspects of commercial law, including such matters as maritime law, commercial arbitration, and intellectual property. It was the understanding of the Secretariat that projects of that nature had been undertaken at the request of both individual governments and groups of governments. It was thought that it would, therefore, be of great value to all concerned to have a global picture of those activities. In particular, information was desired on the extent to which texts of uniform law prepared at the international level formed the basis for the legal texts prepared under the auspices of the development agencies.

4. The Secretariat requested information from multilateral and bilateral development organisations on projects that they might have financed in the last five years or for which they might have given technical assistance for the modernization of the law governing an aspect of economic activity. The details requested of each project included: (1) The identity of the country in which the project was undertaken, if for a region or regional organisation, the region, organisation and countries directly affected; (2) date when the project was commenced and, if completed, date of completion; (3) subject area covered by the project and type of legal text drawn; (4) nature and extent of expertise furnished in the execution of the project; (5) if there was a uniform or model legal text adopted at the international level on some or all of the subject matter of the project, what the text was and whether it was (i) incorporated in whole into the project text, or (ii) used as the basis for the project text, or (iii) not used at all in the project text and (6) whether the law of a particular State, other than the State where the project was undertaken, was incorporated in whole or in part into the project text, or used as the basis for the project text and the nature of the changes made if any. The organisations were further requested to supply UNCITRAL with the legal texts as enacted.

5. While a number of the organisations that had been solicited for information replied to the Secretariat, the information received was disappointing. Law reform projects that are known to the Secretariat from other sources, and that it is understood have been financed by development agencies, were not reported.

6. Rather than report the partial information received, which may not be representative, the Secretariat proposes to continue its investigation and to report its findings to the Commission at its twenty-fifth session.